

REMARKS

Favorable reconsideration of this application, in view of the preceding amendments and following remarks, is respectfully requested.

Claims 1-4, 6, 7, 9, 10, 13-17, 19-29 and 33-40 are pending in this application.

Claim Rejection under 35 U.S.C. § 103

Claims 1-7, 15, 17, 19-21, and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,735,155 to Kuroda et al. ("Kuroda") in view of U.S. Patent 7,266,753 to Tomita et al. ("Tomita") further in view of U.S. Patent Publication 2006/0023601 to Tachino et al. ("Tachino"). Claims 25-26, 29, and 33-40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kuroda in view of Tachino. Claims 9-10, 13-14, and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kuroda in view of Tomita in view of Tachino in view of U.S. Patent 6,971,024 to Sako et al. ("Sako"). Claims 27 and 28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kuroda in view of Tachino in view of Sako. Claim 16 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kuroda in view of Tomita in view of Tachino in view of U.S. Patent 6,879,637 to Nakagawa et al. ("Nakagawa"). Claim 22 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kuroda in view of Tomita in view of Tachino in view of U.S. Patent 6,191,903 to Fujimoto et al. ("Fujimoto"). The Applicant respectfully traverses these rejections.

All of the above-mentioned rejections rely on Tachino, however, the Applicant respectfully asserts that Tachino is not a prior art reference to the above application. For example, 35 U.S.C. § 103 requires that for a reference to be used in a § 103 rejection the cited reference

must be available as prior art under one of the sub-sections of 35 U.S.C. § 102. A brief review of the front cover of the Tachino publication reveals that sub-sections a), b), c), d), f), and g) are not relevant.

When considering 35 U.S.C. § 102(e) the front page of the Tachino reference shows a PCT filing date of June 24, 2003. However, 35 U.S.C. § 102(e) only permits the use of the PCT filing date if the PCT application was published in English among other things. In this instance, WO 2004/003910 was published in Japanese. Therefore, Tachino is not entitled to the PCT filing date for the purposes of using Tachino as a prior art reference under 35 U.S.C. § 102(e). Tachino was filed in the United States on December 27, 2004 and published in English on February 2, 2006. Neither of these dates antedate the U.S. filing date of the present application, January 9, 2004. For at least this reason, the Applicant respectfully asserts that Tachino cannot be relied on in the § 103 rejections listed above. For at least these reasons, the Applicant respectfully requests that the rejections under 35 U.S.C. §103(a) made above be removed.

Further, the Applicant notes that claims 1-7, 9-10, 13-17, and 19-24 are rejected in view of the combination of Kuroda and Tomita among other references. The Applicant respectfully asserts that the alleged combination of Kuroda and Tomia is not proper.

The Applicant would like to take this opportunity to discuss an issue with the combination of Kuroda with the secondary reference of Tomita. As previously mentioned, FIG. 7 of Kuroda illustrates that when a new data section is added to the recording medium of Kuroda, the head position of the old dummy data is detected and the new recording begins at the second sync frame 42 located at the end of the original recording. The second sync frame 42 is overwritten by the new record information and becomes in fact broken due to the overwriting of

data. FIG. 7 illustrates the broken data as D. The Applicant submits the second sync frame 42 contains no usable data after overwriting. Further, the Applicant notes this is a significant feature of Kuroda because Kuroda is directed towards “effectively utilizing a record area on an information record medium”¹ by reducing the amount of space required by the linking area. Tomita is directed towards an information recording medium having a linking block that includes second identification information that is different from each of the first identification information.²

As such, the Applicant submits that combining the teachings of Kuroda and Tomita would obviate the purpose of at least one of Tomita and Kuroda. For example, the method for overwriting data of Kuroda would result in the second identification information in Tomita becoming broken, thereby obviating one of the purposes of Tomita, which is to use the second identification information. As a second example, if the method in Kuroda is used, but the second identification information is maintained, Kuroda no longer provides a method that more effectively utilizes the record area because none of the linking area is overwritten. Therefore, the Applicant submits the combination of Tomita and Kuroda is improper.

In light of the above, the Applicant submits that Tomita and Kuroda fail to disclose, teach or suggest “a frame in one of the data area and the linking area is identifiable based on a combination of a frame sync signal of the frame and a frame sync signal of a preceding frame,” as recited in claim 1 or the somewhat similar features of amended independent claims 19 and 20. Further, the Applicant submits the combination of Tomita and Kuroda is improper.

¹ Kuroda, column 2, lines 30-31.

² Tomita, Abstract.

Therefore, the Applicant respectfully requests the rejection of independent claims 1, 19, and 20, as well as all claims depending therefrom, under 35 U.S.C. § 103 be withdrawn.

The above-mentioned remarks and arguments were made with respect to the combination of Kuroda and Tomita in the response filed March 27, 2008. However, none of these arguments were addressed in the Final Office Action dated July 15, 2008. The Applicant respectfully asserts that the combination of Kuroda and Tomita is improper and respectfully requests that the rejections of the claims made in view of these references be removed.

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CONCLUSION

In view of the above remarks and amendments, Applicants respectfully submit that each of the rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

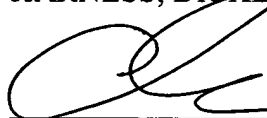
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By



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